

PLANNING COMMISSION AGENDA STATEMENT

Item: 3

Meeting Date: 09/26/07

ITEM TITLE: Public Hearing: Review of Conditional Use Permit (PCC-06-095) for the sale of alcoholic beverages at “A Taste of Italy Restaurant” located at 1730 East Palomar Street, Suite 1 – Steve Abbo, Applicant.

Review of the Conditional Use Permit (PCC-06-095), approved by the Planning Commission on November 29, 2006, is a requirement of the approval under condition III-B, which states:

III. The following on-going conditions shall apply to the subject property as long as it relies upon this approval:

B. This Conditional Use Permit shall be subject to review six months after the date of approval at a noticed public hearing conducted by the Planning Commission. At the review hearing, Conditions of Approval may be revised or modified, or additional conditions may be added.

Steve Abbo, owner of A Taste of Italy Restaurant, applied for a Conditional Use Permit (CUP) on June 19, 2006 for the sale of alcoholic beverages in conjunction with a restaurant as required by the Otay Ranch Sectional Planning Area (SPA) Plan for Villages One and Five. A Zoning Administrator (ZA) hearing was held on October 23, 2006 and the hearing officers determined the case should be set for a Planning Commission public hearing, which was held on November 29, 2006.

ENVIRONMENTAL REVIEW:

The Environmental Review Coordinator has reviewed the proposed project for compliance with the California Environmental Quality Act and has determined that the proposed project was adequately covered under the Second Tier FEIR-97-03 as certified by the City Council on November 10, 1998 and in previously adopted Otay Ranch Sectional Planning Area (SPA) One and Annexation Final Second Tier Environmental Impact Report, EIR 95-01.

RECOMMENDATION:

That the Planning Commission receive public comments and testimony and make a determination regarding the performance of the CUP. In the absence of testimony to the contrary, staff would recommend that the Planning Commission note and file this report. Alternatively, the Planning Commission may assess comment and testimony and move to retain, revise, modify or add conditions to the Conditional Use Permit approved under Planning Commission Resolution PCC-06-095 in accordance with the findings for approval.

DISCUSSION:

The Site Characteristics, General Plan, Zoning and Land Use, Proposal, Background, and previous Analysis Sections still apply and are found in the attached November 29, 2006 Agenda Statement.

ANALYSIS:

The Planning Commission received testimony during the public comment portion of the public hearing held November 29, 2007, which in part led to the condition noted above requiring additional review of the applicant's Conditional Use Permit at a subsequent public hearing.

Based on the residential communities concerns raised prior to the November 29, 2007 public hearing, staff recommended that the restaurant close at 11:00 p.m. on weekdays (Sunday through Thursday) and 12:00 p.m. on weekends (Friday and Saturday). In addition, those alcohol sales in the outdoor patio should be prohibited after 9:00 p.m. on weekdays (Sunday through Thursday) and 10:00 p.m. on weekends (Friday and Saturday).

The Planning Commission, working towards a compromise with the restaurant owners and operators, chose not to alter the operating hours, which remain 11:00 AM to 2:00 AM seven days a week, and imposed the following condition on the hours for alcohol sales:

III. The following on-going conditions shall apply to the subject property as long as it relies upon this approval:

- B. A. The sales, service and consumption of alcoholic beverages shall be permitted between the hours of 11:00 a.m. to 12:00 midnight Sunday through Thursday, and 11:00 a.m. to 1:00 a.m. Friday and Saturday.*

Since the approval last November, the Police Department reports that there have been 5 calls for service (see Attachment No. 2). There are two noise complaints, a disturbance complaint, an incident evaluation, and a false alarm. One way to reduce the noise complaints could be if the restaurant closed a little earlier. Staff still considers the idea of the restaurant closing at 12 midnight on weekdays (Sunday through Thursday) a modest proposal for residents of the Villagio community.

CONCLUSION:

Staff recommends that the Planning Commission respond to any testimony received regarding the performance of the CUP. In the absence of testimony to the contrary, staff would recommend that the Planning Commission note and file this report. Alternatively, the Planning Commission may assess comment and testimony and move to retain, revise, modify or add conditions to the Conditional Use Permit approved under Planning Commission Resolution PCC-06-095 in accordance with the findings for approval.

ATTACHMENTS:

1. Locator Map, Site Plan, Floor Plan
2. Police Department Calls for Service 11/29/06 – 09/17/07
3. Planning Commission Resolution No. PCC-06-095
4. November 29, 2006 Planning Commission Public Hearing Minutes
5. November 29, 2006 Planning Commission Agenda Statement